(23)

H-C—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE SHRI DHIRENDRA MISHRA, J

CR.M.P.NO. 128 of 2006

PETITIONER Rajiv Khatri S/o Shri C.M. Khatri Aged about 39 years, R/o 87, Jal Vihar Colony, P.S. Civil Lines, Raipur Distt. Raipur (C.G.)

V E R S U S

RESPONDENTS

1. N.K. Jain,
Proprietor Jatan Grih Udyog, Fafadih, Raipur (C.G.)

Present Address:-
N.K. Jain
C/o Shanti Vijay Kirana Stores, Post Murumgaon, Distt. Garhchiroli (Maharashtra)

2. State of Chhattisgarh
Through District Magistrate, Raipur (C.G.)

Present :

Shri S.S. Rajput, counsel for the petitioner.
Shri Rajendra Tripathi, G.A. for respondent No.1.

O R D E R
(25.7.2007)

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XI-HC—78

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	This revision is directed against the order dated 27th June 2006 passed in Criminal Revision No. 95/2006, whereby the revision preferred by the petitioner against the order dated 9.1.2006 by which the criminal complaint filed by the petitioner under Section 138 of the Negotiable Instrument Act, was dismissed under Section 256 of Cr.P.C., has also been dismissed. Learned counsel for the petitioner submits that the petitioner was prosecuting the criminal complaint diligently from the year 1998 and only because of his single non-appearance on 9.1.2006, the complaint has been dismissed by the learned trial Court though as per Section 256 of the Cr.P.C. discretion has been vested with the trial Court to adjourn the matter for some other date. He further submits that because of dismissal of the criminal complaint, the petitioner has become remediless as he has no other remedy to recover the amount, which he had lended to respondent No.1, in lieu of which the respondent No.1 had given him a cheque of Rs.1,25,000/- as the limitation prescribed for recovery of the amount, has already been elapsed. On the other hand, learned counsel for the respondent No.1 submits that the respondent No.1 is facing trial since the year 1998 and on the earlier occasions also the matter was	

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	fixed for recording of complainant's evidence on 17.9.2004 and 1.2.2005 and on those dates also the matter was adjourned because of non-production of the witnesses by the present petitioner. There is no illegality or infirmity in the impugned order as the learned Magistrate has exercised her discretion with due application of mind, which has subsequently been confirmed in the revision by the learned Additional Sessions Judge. I have heard learned counsel for the respective parties and perused the impugned order. Learned Additional Sessions Judge in paragraph 11 of the impugned order has taken into account the fact that the complainant was himself negligent in prosecuting the complaint as he did not appear on two earlier occasions when the matter was fixed for recording of complainant's evidence. It has been further observed that on the previous dates also the complainant or his counsel did not appear, however, taking into consideration that the matter was received by the said Court on transfer, it was not dismissed and it was postponed for the other date. On 9.1.2006 neither the complainant nor his counsel appeared before the trial Court and in these circumstances, the complaint was dismissed. After careful perusal of the impugned order, this Court does not find any	

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आदेश पत्रक (पूर्वानुबद्ध)

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	illegality or infirmity in the orders passed by both the Courts below, which warrants interference under Section 482 of the Cr.P.C. In the result, the petition being devoid of substance is liable to be dismissed at the admission stage itself and is accordingly dismissed. **Sd/-** **Dhirendra Mishra** **Judge**	